

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

RANDY OUTLAW

PETITIONER

v.

No. 1:08CV263-A-D

RONALD KING, ET AL.

RESPONDENTS

**ORDER DENYING PETITIONER'S MOTION
FOR RELIEF FROM JUDGMENT OR ORDER**

This matter comes before the court on the petitioner's motion for reconsideration of the court's December 23, 2008, memorandum opinion and final judgment dismissing the instant petition for failure to exhaust state remedies because he did not present the issues in the petition to the Mississippi Supreme Court in a procedurally proper manner. Since the filing of the petition, Outlaw appealed these issues to the Mississippi Supreme Court, but the Mississippi Court of Appeals dismissed the appeal for failure to file the appellant's brief.¹ *Outlaw v. State of Mississippi*, 2009-CP—503-COA. The court interprets the motion, using the liberal standard for *pro se* litigants set forth in *Haines v. Kerner*, 404 U.S. 519 (1972), as a motion for relief from a judgment or order under FED. R. CIV. P. 60. An order granting relief under Rule 60 must be based upon: (1) clerical mistakes, (2) mistake, inadvertence, surprise, or excusable neglect, (3) newly discovered evidence, (4) fraud or other misconduct of an adverse party, (5) a void judgment, or (6) any other reason justifying relief from the operation of the order. The petitioner has neither asserted nor proven any of the specific justifications for relief from an order permitted under Rule 60. In addition, the petitioner has not presented "any other reason justifying relief

¹The court takes judicial notice of the record of petitioner's state court proceedings in the circuit court, the Mississippi Supreme Court and the Mississippi Court of Appeals. *Moore v. Estelle*, 526 F.2d 690, 694 (5th Cir. 1976).

from the operation" of the judgment. As such, the petitioner's request for reconsideration is
DENIED.

SO ORDERED, this the 30th day of November, 2009.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE